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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Rights of indigenous peoples

Report of the United Nations High Commissioner for Human Rights

Summary

The present report is submitted pursuant to Human Rights Council resolution 30/4. It contains information on relevant developments relating to human rights bodies and mechanisms and outlines the activities undertaken by the Office of the United Nations High Commissioner for Human Rights at headquarters and in the field that contribute to the promotion and full application of the provisions of the United Nations Declaration on the Rights of Indigenous Peoples, and follow-up on the effectiveness of the Declaration. The report covers the period from May 2015 to May 2016.

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I. Introduction

1. In its resolution 30/4 on human rights and indigenous peoples, the Human Rights Council requested the United Nations High Commissioner for Human Rights to continue to submit to it an annual report on the rights of indigenous peoples containing information on relevant developments in human rights bodies and mechanisms. It also requested the High Commissioner to report on activities undertaken by the Office of the United Nations High Commissioner for Human Rights (OHCHR) at headquarters and in the field that contribute to the promotion of, respect for and full application of the provisions of the United Nations Declaration on the Rights of Indigenous Peoples.

2. Rather than providing an exhaustive overview of the work of OHCHR on the rights of indigenous peoples, the present report focuses on some illustrative examples of OHCHR activities and initiatives undertaken at headquarters and by field offices that contribute to the full realization of the rights of indigenous peoples. It also outlines recent developments in terms of the work done by United Nations human rights mechanisms on indigenous peoples.

II. Activities of the Office of the United Nations High Commissioner for Human Rights

3. During the period under review, OHCHR continued to work in a wide range of contexts for the promotion and full application of the Declaration. The High Commissioner continued to advocate respect for the rights of indigenous peoples, and indigenous issues figure prominently in the OHCHR Management Plan 2014-2017, including in connection with the key thematic priorities of enhancing equality and combating discrimination.

4. OHCHR remains committed to supporting the work of the Inter-Agency Support Group on Indigenous Peoples' Issues and has been engaged, in particular, in the Inter-Agency's work to support the development of the United Nations system-wide action plan on indigenous peoples — a key recommendation of the 2014 World Conference on Indigenous Peoples. The action plan[1] was launched at the fifteenth session of the Permanent Forum on Indigenous Issues, held from 9 to 20 May 2016, to ensure a coherent United Nations system-wide approach to achieving the ends of Declaration.

5. At the same time, lack of implementation and enforcement continue to hamper the full realization of the rights of indigenous peoples. Shrinking democratic spaces and a development agenda pushed through without consideration for indigenous peoples' right to consultation have often been a source of conflict during the reporting period. Systematic discrimination, lack of indigenous peoples' participation in decision-making, in particular in the context of large-scale projects, extractive industries and legislative processes, the lack of land demarcation and titling, challenges to indigenous peoples in voluntary isolation or in initial contact and increasing violence against indigenous human rights defenders are among the challenges faced by indigenous peoples worldwide.

[1] Available from www2.ohchr.org/english/OHCHRreport2014-2017OMP_Web_version/media.pdf/0_THE_WHOLE_REPORT.pdf.

[2] Available from www.un.org/esa/socdev/unpfii/documents/2016/Docs-updates/SWAP_Indigenous_Peoples_WEB.pdf.

A. Business, extractive industries and human rights

6. Many OHCHR field presences have worked closely with national human rights institutions to build their capacity to address indigenous peoples' human rights. In South Africa, the regional office organized a seminar on business and human rights for community leaders and national human rights institutions of the subregion in partnership with the South African Human Rights Commission. The seminar was held in Johannesburg from 28 to 30 September 2015 and included participants from Madagascar, Malawi, Mozambique, South Africa, Zambia and Zimbabwe. The principle of free, prior and informed consent was discussed and participants shared relevant experiences, placing particular focus on mining activities in their respective countries. The regional office for South America also pursued initiatives, with national human rights institutions in the subregion, with a focus on indigenous peoples and extractive industries.

7. In May 2015, the office in Guatemala held a workshop with the national human rights institution focusing on responses to social conflict in the context of natural resource extraction and development projects. In 2016, the office carried out training sessions on the Guiding Principles on Business and Human Rights to strengthen the capacity of staff members of national human rights institutions.

8. The office in Guatemala provided technical assistance to the Government on implementing the policy on reparations for 33 indigenous communities affected by the construction of the Chixoy hydroelectric project in 1975. In addition, the office provided capacity-building support on the rights of indigenous peoples to staff at the Ministry of Environment and Natural Resources responsible for the development of environmental impact studies.

9. The office in Mexico emphasized the right to consultation in its work on indigenous peoples' rights. It documented three emblematic cases related to the lack of prior consultation (in Sonora and Oaxaca) and sought to engage with relevant counterparts (communities, federal and state level authorities, academics and businesses) to address the situation.

B. Multilateral development banks

10. OHCHR was involved in the ongoing safeguards review of the World Bank and has formally contributed to the second draft of the Bank's environmental and social framework, which included recommendations on the draft standard on indigenous peoples. Furthermore, an OHCHR staff member was temporarily posted to the Inspection Panel of the Bank (an independent accountability mechanism) in April and May 2016 to support the Panel's forthcoming publication on emerging lessons relating to indigenous peoples, drawing from its caseload of 22 years.

11. At the country level, OHCHR worked with the World Bank on two projects, one focusing on land tenure reform in the Democratic Republic of the Congo and one on collective reparations in Colombia. Both projects are being carried out in close consultation with indigenous organizations and in cooperation with the United Nations country teams.

12. The OHCHR office in Cambodia also supported indigenous communities to better assert their rights in the context of an investment project planned by the International Financial Corporation. In addition to building the capacity of project-affected communities, OHCHR was invited to observe the meetings of the tripartite committee composed of the company seeking funding from the International Financial Corporation, indigenous peoples' representatives and local authorities. The role of OHCHR as a third-party broker

helped the parties to engage in good-faith negotiations and to seek solutions to outstanding disputes over indigenous peoples' land and sacred forests.

C. Early-warning mechanisms and monitoring of human rights violations

13. During the reporting period, OHCHR participated in several meetings and activities to identify warning signals linked to specific developments that could trigger unrest and conflict. Early-warning mechanisms related to land-related violence, conflict and human rights in South-East Asia were discussed at a meeting organized by OHCHR in Bangkok. Participants highlighted issues related to indigenous peoples' access to land in Cambodia, Malaysia, the Philippines and Thailand, among other countries.

14. In May 2015, the United Nations joint human rights office in the Democratic Republic of the Congo investigated human rights violations that had been committed during an attack against indigenous Pygmy communities in Nyanza territory, in Katanga Province, and resulted in murders, rapes, abductions and enforced disappearances, and in the extensive destruction of property.

15. The office in Guatemala carried out more than 40 missions between April 2015 and April 2016 to monitor the human rights situation of indigenous agricultural workers, the impact of monoculture activities on the human rights of indigenous peoples and cases of potential or escalating social conflict, including conflicts resulting from extractive industry activities affecting indigenous peoples. Many of the missions were carried out jointly with the national human rights institution.

16. In addition, the office in Guatemala documented numerous cases of irregularities in criminal proceedings against indigenous peoples for acts carried out in the context of hydroelectric and mining projects. Many indigenous human rights defenders continue to be in pretrial detention, accused of crimes of conspiracy, instigation of unlawful association and assembly and crimes for which non-custodial measures are not available, such as kidnapping.

D. Access to justice and strengthening the legal protection of indigenous peoples' rights

17. In 2015, the regional office for South America provided technical support for the development of an online course for the Ecuadorian judiciary on collective rights and indigenous justice. The topics of the online course included: indigenous peoples as rights holders in international law; collective rights in the Constitution; free, prior and informed consent; relevant recommendations from human rights mechanisms; and indigenous customary justice and access to justice. More than 400 judges and prosecutors will be trained in 2016 using this online tool in the provinces with the highest number of indigenous peoples: Pastaza, Cotopaxi, Chimborazo, Tungurahua and Morona.

18. In the Plurinational State of Bolivia, the country office developed a training programme for indigenous leaders on the promotion, protection and implementation of collective rights in accordance with international standards. This was done in collaboration with la Universidad Indígena Boliviana Guaraní in partnership with the German Agency for International Cooperation and with support from the Confederation of Indigenous Peoples of Bolivia. In April 2016, 16 indigenous leaders successfully completed the course, which will be a permanent feature of the university's regular academic programme and will also be included in the curriculum on legal anthropology.

19. The office in Guatemala continued implementing the second phase of its Maya Programme, which seeks to defend, through strategic litigation, the rights of indigenous peoples to communal lands, to culturally appropriate health practices and to cultural and intellectual property. A group of nine lawyers, as well as 10 cadets who provide assistance in legal cases, have been trained on the rights of indigenous peoples through the Maya Programme. Thirteen universities professors also took part in the Programme and will, as a result, include strategic litigation and the rights of indigenous peoples in their university courses.

20. The office in Guatemala carried out an analysis of Constitutional Court jurisprudence related to the rights of indigenous peoples. The results of the analysis demonstrated an increase in cases brought by indigenous peoples to the courts and in favourable judgments issued since the start of the Maya Programme, especially regarding land rights and the right to consultation. The authority of Guatemala has made headway in the investigation of cases of grave human rights violations committed during the internal armed conflict and in related prosecutions.

21. During the reporting period, the Constitutional Court in Guatemala issued several judgments related to the right of indigenous peoples to be consulted about initiatives that affect their rights, including in relation to extractive and other development projects. In its last two judgements related to mining projects, the Court suspended the licences of the companies involved until a consultation process could be carried out with the affected communities.

22. In April 2016, Guatemala launched a national dialogue on natural resources, which was carried out with technical support of the OHCHR office in Guatemala. As part of the national dialogue, a series of regional dialogues have been held with the technical assistance of OHCHR, to gather information on the views held by indigenous peoples, members of civil society and others on the constitutional reform process.

23. In November 2015, the OHCHR regional office for South-East Asia supported the Department of National Parks of Thailand in the implementation of the human rights recommendations of the World Heritage Committee regarding the designation of the Kraeng Krachan Forest Complex as a World Heritage Site of the United Nations Educational, Scientific and Cultural Organization (UNESCO). Upon request of the Government, the regional office reviewed the draft national road map to implement the UNESCO recommendations and provided the Government with comprehensive comments on how to address the concerns of the indigenous community living in the Kraeng Krachan Forest Complex.

F. Land rights and food security

24. Land rights and food security have been high on the agenda of the field offices in Asia, Africa and the Americas. The office in Cambodia continued working with the Ministry of Land Management, Urban Construction and Planning, local governments and civil society organizations to support indigenous peoples' efforts to apply for collective land titles and to provide legal aid to communities that have suffered from land rights violations.

25. OHCHR provided support to several indigenous communities in the process of obtaining collective land titles. Moreover, the office has collaborated with the Ministry of Rural Development and the local authorities of Koh Kong Province on registering the identity of eight indigenous communities of the Areng valley. Through several joint missions to the area, OHCHR has assisted the Ministry and the subnational authorities in developing procedures for the registration of an indigenous identity, facilitated the building

of trust between indigenous peoples and the authorities and raised awareness of indigenous peoples' rights among all stakeholders.

26. The office in Cambodia also conducted training on collective land titles for 30 Charay indigenous families in Pursat Province who are at risk of losing their traditional land as a result of land grabbing. In October 2015, OHCHR started a pilot project to support discussions and negotiations between indigenous Bunong communities from the village of Busra in Mondulkiri Province affected by an economic land concession and the private company to which the land concession had been granted. As of April 2016, compensation agreements have been made concerning one sacred site and clear and time-bound commitments were made by the company to review over 100 pending land claims. The office in Cambodia will soon launch two interactive voice response applications in the Bunong and Kuy indigenous languages containing information about the land law, communal land registration rights and processes, and economic land concessions in Cambodia.

27. The regional office for Southern Africa continued to play an active role in many initiatives related to the promotion of the rights of indigenous peoples. The South African Human Rights Commission held national investigative hearings on human rights violations among Khoisan communities in November and December 2015 and April 2016. The national hearings were convened in several provinces of South Africa on the basis of complaints received by the Commission from various Khoisan communities (Khoi, San, Nama, Griqua and Koranna) regarding access to basic services, land and the constitutionality of indigenous groups in South Africa. The outcome of the hearings will be a report with concrete recommendations and possibly also action plans on the issue.

28. In January 2016, a representative from the regional office for South America spoke at an event on food security and nutrition organized in Peru by the Food and Agriculture Organization of the United Nations (FAO) and the Foro Internacional de Mujeres Indígenas. The event was part of a broader programme jointly promoted by those two organizations targeting indigenous women human rights defenders and human rights activists. The contribution of the regional office focused on the international human rights system from the perspective of indigenous peoples' rights. In 2015, in Argentina, OHCHR responded, together with the United Nations Development Programme, the United Nations Children's Fund, the World Health Organization, FAO and the national human rights institution, to a child malnutrition crisis among the Qom and Wichi people in the Province of Salta and conducted a study to identify the economic, social and cultural factors that contribute to the deaths of indigenous children.

29. In 2015, the office in Guatemala developed, in coordination with the national human rights institution, a methodology to observe the implementation of the Government's strategy to combat malnutrition, including among indigenous peoples, which are among the most affected by malnutrition in the country. As part of that work, OHCHR and the national human rights institution prepared a joint report on the issue that was presented to the Government and civil society representatives. The office continues to follow up on the implementation of the recommendations made in the report. In 2016, the office trained the focal points in the national human rights institution on food security, health, indigenous peoples and labour rights and on the human rights impact of monoculture activities.

F. Climate change and indigenous peoples' rights

30. The twenty-first session of the Conference of the Parties to the United Nations Framework Convention on Climate Change, held in Paris in December 2015, brought together States, the private sector and environmental and human rights organizations.

31. During the session, the Special Rapporteur on the rights of indigenous peoples and the Special Rapporteur on human rights and the environment participated in a press briefing organized by OHCHR. In his statement, the Special Rapporteur on human rights and the environment emphasized that climate change interferes with human rights and that States must ensure that their climate change actions meet their human rights obligations and referred to the OHCHR report entitled "Understanding human rights and climate change" dated 26 November 2015. The Special Rapporteur on the rights of indigenous peoples mentioned the role played by indigenous peoples in the front line of climate change, including their active participation in the twenty-first session of the Conference of the Parties and in Human Rights Council sessions in respect of resolutions that link human rights and climate change.

32. More than 250 indigenous delegates participated in the twenty-first session of the Conference of the Parties and advocated for the inclusion of indigenous peoples' rights in the legally binding Paris Agreement, the preamble to which contains references to the protection of indigenous peoples' rights.

G. Development of national action plans

33. The office in the Plurinational State of Bolivia provided technical assistance for the development of a national action plan on realizing the rights of indigenous peoples, in compliance with the outcome document of the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples (General Assembly resolution 69/2). The office encouraged the Government to develop the plan in consultation with indigenous peoples and with the ongoing involvement of rights holders, and to include in the plan a monitoring strategy for effective implementation. The process was led by the Ministry of Foreign Affairs and involved officials from the Ministry of Development Planning and other parts of the executive branch and indigenous peoples' representatives.

III. Human rights bodies and mechanisms

A. Participation of indigenous peoples in United Nations processes

34. Every year OHCHR undertakes a number of capacity-building activities so that indigenous peoples can improve their knowledge of and participation in United Nations human rights bodies and mechanisms.

35. During the reporting period, 31 indigenous peoples' representatives from Algeria, Botswana, Brazil, Cambodia, Cameroon, Canada, Chile, Colombia, the Democratic Republic of the Congo, Guatemala, Honduras, India, Mexico, Namibia, Nepal, Nicaragua, Norway, Peru, the Philippines, the Russian Federation and the Solomon Islands participated in the annual indigenous fellowship programme, which took place in Geneva in July 2015. Of the participants, 13 were men and 18 were women. For the first time, an indigenous person with a disability also participated in the fellowship programme, which included sessions on the United Nations system and international human rights instruments and mechanisms. The fellows were introduced to issues of particular relevance to indigenous peoples, such as the human rights of indigenous peoples in the context of business and extractive industries, international financial institutions and women's rights. All the fellows attended the eighth session of the Expert Mechanism on the Rights of Indigenous Peoples, at which they organized their own side event on the topic of land management and indigenous peoples. Moreover, three indigenous fellows who attended the training in

Geneva took part in national fellowships with OHCHR country offices in Cambodia, Colombia and the United Republic of Tanzania.

36. OHCHR also organized a senior indigenous fellowship programme over the course of four months to provide on-the-job training. In 2015, the senior indigenous fellow came from Nepal and was involved in the facilitation of events and the preparation of analytical briefs, reports and speeches. She also participated in rigorous training on critical human rights issues and attended the sessions of the Human Rights Council and the Expert Mechanism on the Rights of Indigenous Peoples. She was able to raise awareness of indigenous peoples' issues in Nepal and was a panellist at a side event held during the twenty-ninth session of the Council on the disproportionate amount of violence suffered by indigenous women and girls worldwide. The side event was sponsored by the Permanent Mission of the United States of America to the United Nations Office and other international organizations in Geneva.

37. During the reporting period, the OHCHR regional office for South America and the Ombudsman's Office of Argentina organized capacity-building workshops on international standards and mechanisms for indigenous peoples' leaders in the Provinces of Salta and Jujuy.

38. In addition, 2015 marked the thirtieth anniversary of the United Nations Voluntary Fund for Indigenous Peoples. A series of activities took place on that occasion, including an exhibition during the thirtieth session of the Human Rights Council and the launch of a video[1] showing how instrumental the Fund has been over the years in strengthening the participation of indigenous peoples in decision-making processes at the United Nations, thus contributing to advance the rights of indigenous peoples at the international level.

39. Over the past year, the United Nations Voluntary Fund for Indigenous Peoples continued to support the participation of indigenous peoples' organizations and communities in the sessions of the Permanent Forum on Indigenous Issues, the Expert Mechanism on the Rights of Indigenous Peoples, the Human Rights Council and its universal periodic review mechanism, as well as the treaty bodies.

40. In 2015, 98 indigenous peoples' representatives were able to participate in the fourteenth session of the Permanent Forum on Indigenous Issues and the eighth session of the Expert Mechanism on the Rights of Indigenous Peoples, as well as in the sessions of the Human Rights Council, the Working Group on the Universal Periodic Review, the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Discrimination against Women, the Committee on the Rights of the Child, the Committee on the Rights of Persons with Disabilities, the Committee against Torture and the Committee on the Elimination of Racial Discrimination.

41. So far in 2016, 56 indigenous representatives were selected to attend the fifteenth session of the Permanent Forum on Indigenous Issues and the ninth session of the Expert Mechanism on the Rights of Indigenous Peoples, as well as in sessions of the Human Rights Council, the Working Group on the Universal Periodic Review, the Committee on the Elimination of Racial Discrimination, the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child held from January to June.

42. In view of the ever-growing demand for participation in meetings of the human rights mechanisms and considering the positive impact that such participation has in terms of the number of references made to indigenous peoples in international jurisprudence, the

[1] Available at https://vimeo.com/180943562.

Board of the United Nations Voluntary Fund for Indigenous Peoples has recommended that a budget be set aside to support the participation of an additional 38 representatives of indigenous communities and organizations in the sessions of the Human Rights Council, the Working Group on the Universal Periodic Review and the treaty bodies to be held from July 2016 to March 2017.

43. In 2016, the United Nations Voluntary Fund for Indigenous Peoples also supported two extraordinary meetings on the outcome document of the World Conference on Indigenous Peoples, a workshop on the review of the mandate of the Expert Mechanism on the Rights of Indigenous Peoples and the General Assembly consultation process aiming to enhance the participation of indigenous peoples' representatives in United Nations meetings affecting them. In order to support robust participation in these two strategic forums, the members of the Board recommended that an important part of its budget be used to facilitate the attendance of 28 representatives of indigenous peoples in those consultations.

44. Efforts to strengthen the role of the United Nations Voluntary Fund for Indigenous Peoples beyond direct travel support were made, especially to build the capacity of the beneficiaries of the Fund and to contribute to their more effective engagement with human rights mechanisms. Induction courses and human rights training sessions were organized to that end in the framework of the sessions of the Permanent Forum on Indigenous Issues and the Expert Mechanism on the Rights of Indigenous Peoples and in cooperation with Docip.

45. During the reporting period, the three United Nations mechanisms devoted to the rights of indigenous peoples — the Expert Mechanism on the Rights of Indigenous Peoples, the Special Rapporteur on the rights of indigenous peoples and the Permanent Forum on Indigenous Issues — continued to strengthen cooperation, including by holding coordinating meetings during the session of the Expert Mechanism in July 2015 and the session of the Permanent Forum in May 2016.

B. Expert Mechanism on the Rights of Indigenous Peoples

46. During its eighth session, in July 2015, the Expert Mechanism on the Rights of Indigenous Peoples held a panel discussion on the human rights of indigenous peoples in relation to business enterprises, a discussion on the post-2015 development agenda and indigenous peoples' rights, and a consultation with States and indigenous peoples on the United Nations system-wide action plan to ensure a coherent approach to achieving the ends of the Declaration. The Expert Mechanism finalized and adopted a study on the promotion and protection of the rights of indigenous peoples with respect to their cultural heritage (A/HRC/30/53), including through their participation in political and public life. The study was submitted to the Human Rights Council at its thirtieth session, in September 2015.

47. Also in September 2015, the Human Rights Council adopted resolution 30/11, in which it requested OHCHR to convene a two-day expert workshop open to the participation of States, indigenous peoples and other stakeholders, including by inviting the submission of written contributions, to review the mandate of the Expert Mechanism. The expert workshop, which was held in Geneva on 4 and 5 April 2016, brought together approximately 100 participants, including representatives of States, indigenous peoples and other stakeholders. OHCHR submitted a report on the workshop (A/HRC/32/26) to the Council at its thirty-second session, in June 2016.

48. In February 2016, the Office organized an expert seminar in Montreal, Canada, jointly with McGill University. The main objective of the seminar was to collect

substantive information for the Expert Mechanism's study on the right to health and indigenous peoples.

C. Special Rapporteur on the rights of indigenous peoples

49. The Special Rapporteur on the rights of indigenous peoples carried out various activities in four interrelated areas: the promotion of good practices, country reports, cases of alleged human rights violations, and thematic studies. Within each area, the Special Rapporteur built upon the established working methods generally employed by the special procedure mandate holders of the Human Rights Council to address cases of alleged human rights violations through the communications procedure.

50. With respect to the promotion of good practices, the Special Rapporteur continued to provide technical assistance to Governments in their efforts to develop laws and policies that relate to indigenous peoples. She participated in a meeting organized by the Working Group on Indigenous Populations/Communities in Africa, established by the African Commission on Human and Peoples' Rights, on follow-up to the outcome document of the World Conference on Indigenous Peoples and the twenty-first session of the Conference of the Parties to the United Nations Framework Convention on Climate Change. The Special Rapporteur also delivered the keynote speech at the first session of the open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights, which is mandated with elaborating an international legally binding instrument, and took part in a two-day symposium, held at the University of Ottawa, with indigenous women leaders and their allies on the murders and disappearances of indigenous women and girls and to discuss a possible framework and structure for a national inquiry.

51. In February 2016, the Special Rapporteur participated in an international seminar on indigenous jurisdiction and access to justice in Bogota, where she encouraged dialogue and cooperation between indigenous peoples and State authorities on the issue of the administration of justice. In the same month, she participated in a seminar on experiences in the litigation of cases of violence against women and women's access to justice in Central America, specifically in Guatemala, where she spoke of strengthening indigenous women's access to justice and protecting them against violence. In April 2016, the Special Rapporteur participated in an international seminar on the impact of investments agreements on the rights of indigenous peoples with a view to collecting inputs for her next report to the Human Rights Council on bilateral and free trade agreements.

52. The work of the Special Rapporteur on country reports involves investigating and reporting on the overall human rights situation of indigenous peoples in certain countries. During the reporting period, the Special Rapporteur carried out a follow-up visit to examine the situation of Sami indigenous people in Finland, Norway and Sweden (August 2015). In her end-of-mission statement, she expressed concern at the land rights situation of the Sami people given the increased drive to extract and develop minerals and set up renewable energy projects in the Sapmi region. In November 2015, the Special Rapporteur visited Honduras, where she noted that indigenous peoples lacked full recognition and protection and did not enjoy their rights to their ancestral lands, territories and natural resources. In addition, their governance systems were not being strengthened, their institutions were not recognized, they were not allowed to manage their natural resources or make use of their customary justice systems.

53. In March 2016, the Special Rapporteur carried out a follow-up visit to Brazil. In her end-of-mission debrief, the Special Rapporteur noted the lack of progress since the mission of the previous Special Rapporteur in 2008. She noted with particular concern that attacks and killings frequently constituted reprisals in contexts where indigenous peoples

reoccupied ancestral lands after long periods of waiting for demarcation processes to be completed. The Special Rapporteur will present a more in-depth assessment of her country visits at the thirty-third session of the Human Rights Council, in September 2016.

54. The Special Rapporteur has responded on an ongoing basis to specific cases of alleged human rights violations. During the year under review, the Special Rapporteur took action on some 54 cases, including in Australia, Belize, Brazil, Brunei, Canada, Chile, Colombia, Ecuador, Finland, Guatemala, Honduras, India, Indonesia, Japan, Kenya, the Lao People's Democratic Republic, Malaysia, Mexico, New Zealand, Nicaragua, Peru, the Philippines, Singapore, the United Republic of Tanzania, the United States and Viet Nam.

55. The negotiation by the Economic Commission for Latin America and the Caribbean of a regional instrument on the right to access to information, participation and justice in environmental matters (October 2015) triggered a joint statement by several special procedure mandate holders. The Special Rapporteur also cosigned a letter written with special procedure mandate holders and experts from the inter-American human rights system urging the Government of Canada to fully address the root causes of extreme violence and discrimination against indigenous women and girls (February 2016). She also co-signed a number of letters with other special procedure mandate holders, including one welcoming the verdicts for crimes against humanity issued by a Guatemalan court against two former military officials and one calling on the United States to increase its efforts to address environmental threats to human rights, in particular the lead-contaminated water in Flint, Michigan, which had dramatic consequences on the health of the most vulnerable children (March 2016).

56. In relation to thematic studies, the Special Rapporteur submitted her second report to the Human Rights Council in September 2015, her intention being to continue to focus on issues related to the economic, social, cultural and environmental rights of indigenous peoples. Her second report to the Council (A/HRC/30/41) was exclusively devoted to human rights violations relating to indigenous women and girls. In her second report to the General Assembly (A/70/301), she dedicated the thematic section to an analysis of how international investment agreements and investment clauses in free trade regimes affect the rights of indigenous peoples. In the report, the Special Rapporteur addressed a number of areas of concern, related both to direct violations of the rights of indigenous peoples and to the systemic impact of free trade regimes on the lives and communities of indigenous peoples.

D. Treaty bodies

57. During the reporting period, indigenous peoples' rights were mentioned in the recommendations and concluding observations of several treaty bodies.

58. The Human Rights Committee addressed recommendations on issues affecting indigenous peoples to Costa Rica, Namibia, New Zealand, Rwanda, South Africa and Sweden (116th session), Suriname (115th session), and Canada, France and Venezuela (Bolivarian Republic of) (114th session). In its concluding observations, the Committee touched on issues such as discrimination, the rights to self-determination and recognition, the lack of disaggregated data, the loss of languages and culture, and birth registration. Other observations focused on the elevated rates of violence against indigenous women, the gender wage gap, the underrepresentation of indigenous women in decision-making positions and employment opportunities for indigenous women. The Committee also made recommendations related to legal protections and access to remedies, the high incarceration rate, law enforcement and the administration of justice, and the recognition of traditional governance structures. The situation of indigenous peoples' land rights, in particular in respect of resource extraction, land restitution policies and obtaining the free, prior and

informed consent of indigenous peoples on decisions affecting them and their land, was also raised. The Committee included requests for information on indigenous peoples in the list of issues addressed to Bangladesh and Colombia.

59. The Committee on the Elimination of Discrimination against Women considered the reports of Bolivia (Plurinational State of), the Russian Federation, Saint Vincent and the Grenadines and Sweden. In its concluding observations, it highlighted the limited access that indigenous women have to health care, social services and the justice system. In respect of indigenous women, the Committee made recommendations on reducing the elevated rates of poverty, unemployment and gender-based violence, reducing the increased vulnerability to the effects of natural disasters, increasing awareness of rights and the means of ensuring their realization and increasing the participation of women in high-level decision-making positions and in public and political life. The Committee urged States parties to the Convention on the Elimination of All Forms of Discrimination against Women to address trafficking in indigenous women, ensure the rights of indigenous women in the context of harmful customary laws and practices and take measures to realize indigenous women's rights to traditional lands, to a livelihood and to free, prior and informed consent. In addition, the Committee highlighted the need for disaggregated data on indigenous women and adopted general recommendations No. 33 (2015) on women's access to justice, in which States parties' obligations to indigenous women are highlighted, and No. 34 (2016) on the rights of rural women.

60. The Committee on the Elimination of Racial Discrimination considered reports from Colombia, Costa Rica, the Netherlands, Niger, Norway and Suriname (eighty-seventh session), the Holy See and Mongolia (eighty-eighth session), and Rwanda and Spain (eighty-ninth session). The Committee expressed concern over the structural discrimination that many indigenous peoples face, the disproportionate rates of poverty and the barriers to access to culturally appropriate education and health care (especially for nomadic peoples), housing, employment, clean water, the justice system and legal remedy. The Committee recommended that States parties to the International Convention on the Elimination of All Forms of Racial Discrimination take steps to achieve legal recognition of indigenous lands and resources, free, prior and informed consent for any activities that may affect indigenous peoples, and indigenous peoples' right to self-determination. The Committee raised concerns over violence against indigenous peoples, including indigenous women and human rights defenders, political representation, forced displacements, multiple forms of discrimination and the rights of indigenous peoples living in voluntary isolation and initial contact. Furthermore, the Committee urged a number of States parties to consider ratifying the International Labour Organization (ILO) Indigenous and Tribal Peoples Convention, 1989 (No. 169), and to collect disaggregated data. In addition, the Committee made recommendations to the Netherlands, Norway and Spain in relation to the activities of companies domiciled within their jurisdictions but operating abroad and the negative impacts of those business activities on local indigenous peoples. The Committee also sent a letter of concern to Papua New Guinea under the early warning and urgent action procedures in relation to the alienation of indigenous lands.

61. In May 2016, the OHCHR office in Guatemala provided technical assistance to indigenous women so that they could prepare a shadow report on follow-up to the recommendations of the Committee on the Elimination of Racial Discrimination. The Committee, which had examined Guatemala in April 2015, requested, in its concluding observations, that the Government provide information on the implementation of three recommendations, including one on strengthening the national legal framework with respect to indigenous peoples and one on strengthening the political participation of indigenous peoples (see CERD/C/GTM/CO/14-15, para. 34).

62. The Committee on Economic, Social and Cultural Rights highlighted the disproportionate rates of discrimination, unemployment, poverty and inequality faced by indigenous peoples in its concluding observations on the reports of Burundi, Canada, Chile, Guyana, Kenya, Namibia, Thailand, Uganda and Venezuela (Bolivarian Republic of) (fifty-fifth to fifty-seventh sessions). The Committee recommended that a number of States parties consider ratifying the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169), and that they commit to the full implementation of the United Nations Declaration on the Rights of Indigenous Peoples. The Committee also made recommendations on language, education and the preservation of culture; access to health care, education, safe drinking water and sanitation and legal aid; and the disproportionate effect that climate change has on indigenous peoples. In other concluding observations, the Committee focused on free, prior and informed consent, land tenure and resource ownership, and the impact of resource exploitation on indigenous peoples. Furthermore, the Committee raised concerns related to the involvement of indigenous peoples in forced labour, the corruption of village captains in indigenous communities, gender-based violence and the allocation of funds to programmes that support indigenous peoples. The Committee implemented the simplified reporting procedure at its fifty-seventh session and requested information from New Zealand on the Maori and Pasifika people. In addition, the Committee adopted its general comments No. 22 (2016) on the right to sexual and reproductive health and No. 23 (2016) on the right to just and favourable conditions of work. In both general comments, the Committee made reference to indigenous peoples, identifying them as a category of persons to which the right of non-discrimination within each context was particularly relevant.

63. The Committee on the Rights of the Child considered the reports of Bangladesh, Brazil, Chile, Ethiopia, Honduras, Kenya, Mexico, the Netherlands and Peru (sixty-ninth to seventy-first sessions). The Committee highlighted the inadequate allocation of resources for indigenous children, the structural discrimination faced by indigenous children and the high rates of poverty among indigenous children. The Committee recommended that States parties to the Convention on the Rights of the Child address the adverse impacts of resource development projects on indigenous children's health, increase indigenous children's access to health care and sanitation, quality education and other basic social services, and protect indigenous children from harmful cultural practices. Other issues brought up by the Committee include the negative impact of forced evictions on indigenous children, the high rates of suicide among indigenous youth and the increased vulnerability that indigenous children face with respect to violence and human trafficking. The Committee urged States parties to take steps to ensure indigenous children enjoy their right to identity, and to collect disaggregated data. The Committee adopted general comment No. 20 (2016) on the implementation of the rights of the child during adolescence, in which it noted that special measures are required to combat the widespread discrimination, poverty and denial of language and traditions that indigenous adolescents face and in order to ensure that the rights of indigenous adolescents are fully realized.

64. The Committee on the Rights of Persons with Disabilities made recommendations on indigenous peoples with disabilities in its concluding observations on the reports of Brazil, Gabon and Kenya (fourteenth session) and of Chile, Thailand and Uganda (fifteenth session). The Committee highlighted the multiple forms of discrimination, extreme exclusion and extreme poverty faced by many indigenous peoples with disabilities. The Committee urged States parties to the Convention on the Rights of Persons with Disabilities to collect disaggregated data and allocate sufficient resources for indigenous peoples living with disabilities. Moreover, the Committee recommended that States parties make information available in formats that are accessible to persons living with disabilities, including in indigenous languages.

E. Universal periodic review

65. Issues related to indigenous peoples' rights were addressed in a number of recommendations arising from the universal periodic review. During the reporting period, 42 countries were reviewed for the second time during the twenty-second to twenty-fourth sessions of the Working Group on the Universal Periodic Review. Recommendations on indigenous peoples were addressed to Australia, Guyana, Honduras, Jamaica, Kenya, the Lao People's Democratic Republic, Malawi, Myanmar, Nepal, Panama, Rwanda, Sweden and the United States. The recommendations to either ratify or implement the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169), and to fully implement the United Nations Declaration on the Rights of Indigenous Peoples were made many times. The following recommendations were also made: to establish national action plans to address issues that disproportionately affect indigenous peoples, such as poverty, illiteracy, low birth registration rates and hate crimes; and to adopt comprehensive anti-discrimination legislation. Other issues that were raised in the context of the universal periodic review were related to indigenous peoples' access to education, especially in their mother tongue, and equal access to health, safe drinking water, justice and political participation. Additional recommendations were made on violence against indigenous women and human rights defenders, the recognition of ancestral land rights and the inclusion of indigenous peoples in decision-making processes. It was recommended that measures be implemented to reduce poverty and social exclusion among indigenous peoples in Honduras; that the protection of the rights of indigenous peoples, including to their ancestors' lands, be effectively strengthened in Kenya; and that indigenous peoples be regularly consulted on matters of interest to them, that indigenous peoples be supported in efforts to enjoy their right to traditionally owned lands and resources and that measures be adopted to effectively protect sacred areas against environmental exploitation and degradation in the United States.

66. OHCHR has often supported efforts to follow up on the recommendations on the rights of indigenous peoples that have been made during the universal periodic review. For example, Mexico has accepted several recommendations that relate to the right of indigenous peoples to prior consultation. To this end, the office in Mexico has provided technical assistance to improve adherence to international standards. Moreover, OHCHR has engaged with a group within the executive branch in the process of drafting a law on prior consultation.

IV. Conclusions

67. **Shrinking democratic spaces and a development agenda pushed through without consideration for indigenous peoples' right to consultation have remained a source of conflict during the reporting period. Systematic discrimination, lack of indigenous peoples' participation in decision-making (in particular in the context of large-scale projects, the extractive industries sector and legislative processes), lack of land demarcation and titling, challenges to indigenous peoples in voluntary isolation and initial contact, and increasing violence against indigenous human rights defenders are among the challenges faced by indigenous peoples worldwide. The rights of indigenous peoples have remained a priority for OHCHR, as demonstrated by its actions at the country and regional levels and by the solid support it has provided to mechanisms of the Human Rights Council and other intergovernmental bodies, as well as to international processes.**

68. During the period under review, OHCHR further expanded its work on advancing the rights of indigenous peoples at the country level, enhanced inter-agency cooperation and engaged more closely with multilateral development entities to produce tools and achieve sustainable results. Much of that work builds on the outcome document of the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples, in which States committed themselves to developing national action plans with a view to achieving the ends of the United Nations Declaration on the Rights of Indigenous Peoples and to strengthening the mandate of the Expert Mechanism. OHCHR will support the development of such action plans, including by preparing a manual and by providing case-by-case advice. OHCHR will continue to support the work of members of the Inter-Agency Support Group on Indigenous Peoples' Issues and others to promote system-wide follow-up to the outcome document.

69. The present report contains information on many achievements at the international level and some successes at the country level. Much remains to be done, however, to fill the gaps in national policies and strategies and to achieve full compliance with the Declaration and the outcome document.